

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

ROXANE LABORATORIES, INC.

Plaintiff,

V.

ABBOTT LABORATORIES,

Defendant.

)
)
)
)
) Case No. 2:12-cv-00312
)
) Judge Michael H. Watson
)
) Magistrate Judge King
)
)

**DEFENDANT ABBOTT LABORATORIES’
MOTION TO SUBSTITUTE ABBVIE INC.
AS THE DEFENDANT IN THIS ACTION**

Pursuant to Federal Rule of Civil Procedure 25(c), Defendant Abbott Laboratories (“Abbott”) hereby moves to substitute AbbVie Inc. (“AbbVie”) as the defendant in this action.

A Memorandum in Support is attached.

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MEMORANDUM IN SUPPORT

Pursuant to Federal Rule of Civil Procedure 25(c), Defendant Abbott Laboratories (“Abbott”) hereby moves to substitute AbbVie Inc. (“AbbVie”) as the defendant in this action. AbbVie consents to this motion.

It was publicly announced in October, 2011 (*see* Exhibit A) that Abbott is undergoing a major reorganization of its worldwide business operations whereby it is separating into two publicly traded companies, one in research-based pharmaceuticals and the other in diversified medical products. AbbVie Inc., a Delaware corporation and a wholly-owned subsidiary of Abbott, is the new research-based pharmaceutical company and will include Abbott’s current portfolio of proprietary pharmaceuticals and biologics. (The diversified medical products company, which will retain the Abbott name, will consist of Abbott’s existing diversified medical products portfolio.) When the separation is completed later this year, AbbVie will be a separate, standalone company and will carry forward what is currently Abbott’s research-based pharmaceutical business. To further that separation, on August 1, 2012, the patents involved in this case, pertaining to various aspects of the drug Norvir®, were assigned to AbbVie as part of this reorganization. (*See* Exhibit B.)¹

Given this change in patent ownership, under Rule 25(c), AbbVie should be substituted for Abbott as the defendant. *See, e.g., Bamerilease Cap. Corp. v. Nearburg*, 958 F.2d 150, 154 (6th Cir. 1992) (finding that “[t]he matter of substitutions due to a transfer of interest is within the discretion of the district court.”).

¹ Exhibit B is being filed under seal.

s/ Alycia N. Broz

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CERTIFICATE OF SERVICE

I certify that, on August 29, 2012, a copy of the foregoing was served through the Court's ECF system by electronic mail on all of the counsel of record.

s/ Alycia N. Broz
Alycia N. Broz